

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADAPTIX, INC.
Plaintiff,

v.

CLEARWIRE CORPORATION,
CLEARWIRE LEGACY LLC,
Defendants.

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CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Adaptix, Inc. ("Plaintiff" or "Adaptix"), by and through its undersigned counsel, files this Complaint against Defendants Clearwire Corporation and Clearwire Legacy LLC as follows:

NATURE OF THE ACTION

1. This lawsuit pertains to Defendants' infringement of U.S. Patent No. 7,573,850, titled "Multi-Carrier Communications With Group-Based Subcarrier Allocation" (the "'850 Patent"). A copy of the '850 Patent is attached hereto as Exhibit "A."

PARTIES

2. Plaintiff Adaptix, Inc. is a corporation organized under the laws of the State of Delaware, with its principal place of business in the Eastern District of Texas at 4100 Midway Road, Suite 1025, Carrollton, Texas 75007. Adaptix is the assignee of all right, title, and interest in and to the '850 Patent.

3. Defendant Clearwire Corporation ("Clearwire Corp.") is a corporation organized and existing under the laws of the State of Delaware. Clearwire Corp. was incorporated on or

about May 14, 2008 and was formerly known as “New Clearwire Corporation” until approximately November 28, 2008. Clearwire Corp.’s principal place of business is located at 4400 Carillon Point, Kirkland, Washington 98033. Clearwire Corp. does business in Texas and in the Eastern District of Texas. Clearwire Corp. may be served via its registered agent for service of process: Corporation Service Co., 2711 Centerville Road, Suite 400, Wilmington DE 19808.

4. Defendant Clearwire Legacy LLC (“Clearwire Legacy”) is a corporation organized and existing under the laws of the State of Delaware. Clearwire Legacy was incorporated on or about May 14, 2008. Clearwire Legacy was formerly known as “Clearwire Mergersub LLC” until approximately October 15, 2008, and was formerly known as “Clearwire Sub LLC” until approximately December 1, 2008. Clearwire Legacy’s principal place of business is located at 4400 Carillon Point, Kirkland, Washington 98033. Clearwire does business in Texas and in the Eastern District of Texas. Clearwire Legacy may be served via its registered agent for service of process, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington DE 19808.

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. § 271. This Court has original and exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. The Court has personal jurisdiction over each Defendant. Each Defendant has conducted and does conduct business within the State of Texas. Each Defendant, directly and/or through its subsidiaries and/or intermediaries (including resellers, distributors, retailers, and others), offers for sale, sells, advertises, and/or uses its products and services in the United

States, the State of Texas, and the Eastern District of Texas. Each Defendant, directly and/or through its subsidiaries and/or intermediaries, has committed patent infringement within the State of Texas, and, more particularly, within the Eastern District of Texas. Each Defendant, directly and/or through its subsidiaries and/or intermediaries, owns or has owned property located in Texas and the Eastern District of Texas, including the property that it has used to commit patent infringement as well as substantial additional property. Moreover, each Defendant is subject to general jurisdiction in this Court.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT 7,573,850

8. Adaptix refers to and incorporates herein the allegations of Paragraphs 1-7 above.

9. The ‘850 Patent was duly and legally issued by the United States Patent and Trademark Office on August 11, 2009, after full and fair examination. Adaptix is the assignee of all rights, title, and interest in and to the ‘850 Patent and possesses all rights of recovery under the ‘850 Patent.

10. Clearwire Corp. and Clearwire Legacy each has infringed and/or continues to infringe the ‘850 Patent by offering WiMAX services (sold under the brand “Clear” and resold by resellers under other brand names) to customers in compliance with the IEEE 802.16 and 802.16e standards, and by making, using and/or selling the supporting WiMAX network used to provide such WiMAX services. More specifically, the Defendants’ WiMAX network implements a frequency reuse pattern which constitutes an infringement of the ‘850 Patent.

11. Adaptix is entitled to recover from each Defendant the damages sustained by Adaptix as a result of each Defendant’s wrongful acts in an amount subject to proof at trial.

12. Each Defendant's infringement of Adaptix's exclusive rights under the '850 Patent will continue to damage Adaptix's business, causing irreparable harm for which there is no adequate remedy at law, unless it is enjoined by this Court.

JURY DEMAND

13. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

Plaintiff Adaptix, Inc., respectfully requests this Court to enter judgment in its favor against Defendants, granting the following relief:

- A. An adjudication that each Defendant has infringed and continues to infringe claims of the '850 Patent;
- B. An award to Adaptix of damages adequate to compensate Adaptix for Defendants' acts of infringement together with prejudgment interest;
- C. An award of Adaptix's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285 due to the exceptional nature of this case, or as otherwise permitted by law;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants from further acts of infringement; and
- E. Any further relief that this Court deems just and proper.

Dated: December 21, 2009

Respectfully Submitted,

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